



California Fair Political Practices Commission

May 14, 1987

Alice C. Graff
City Attorney
City of Hayward
22300 Foothill Boulevard
Hayward, CA 94541

Re: Your Request for Advice
Our File No. A-87-099

Dear Ms. Graff:

You have requested advice on behalf of Ms. Barbara Bradley, a member of the Hayward City Council, concerning her duties under the conflict of interest provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

As a sales representative for a company that sells ticketing services and equipment, is Ms. Bradley prohibited from participating in decisions regarding a proposed development project which will include certain facilities which might contract for ticketing services?

CONCLUSION

Ms. Bradley may not participate in any decision which will have a significant impact on whether or not the development project is completed.

FACTS

Councilmember Barbara Bradley is employed as a sales representative for Globe Ticket Company, a corporation that sells ticketing services and equipment. Her territory includes the City of Hayward. She works on a salary, commission, and

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

Alice C. Graff
May 14, 1987
Page 2

bonus compensation plan which bases her compensation on the amount of sales made to customers in her territory. While Globe Ticket Company can establish a house account in which commissions and bonuses are not earned by sales representatives on the house account sale, sales representatives are required to service all house accounts in their territory. Compensation for servicing house accounts is in part included in their base salaries. Sales representatives can earn commissions and bonuses for additional services or products sold by them to house account customers.

Globe Ticket Company has two significant full-service competitors in the ticketing service and equipment market in California, Dillingham Ticket Company and H. S. Crocker Ticket Company. However, a large number of companies provide one or more of the products and equipment sold by the full-service concerns.

A development project is being proposed in the City of Hayward by The Shorelands Corporation. The Shorelands' project is a proposal to construct a racetrack and entertainment park, a research and development complex, two hotels, restaurants, a bank, and a commercial center on 687 acres in the City of Hayward. Jurisdiction over the project is vested in the city, the Bay Conservation and Development Commission, and the Corps of Engineers. The project cannot be constructed without approval from all three entities. An environmental impact report (EIR) has been prepared on the proposal, but it has not yet been considered by any of the approving entities. If approved as proposed, the racetrack, entertainment park, and parking facilities could contract for ticketing services and equipment.

In our recent telephone conversation, you informed me that Ms. Bradley believes that if the Shorelands project is developed, the contracts for ticketing service will be awarded in several bids. Bids would be accepted for three portions of the project: the racetrack, the entertainment park, and the parking. Two bids would be accepted on each portion of the project: one for printing and one for equipment. Globe Ticket Company would bid on all of the contracts except the contract for parking equipment. Ms. Bradley believes there would be three or four bidders on ticketing equipment for the racetrack and the entertainment park. There would be at least four or five bidders for printing on each portion of the project.

If Globe Ticket Company was awarded any of these contracts, Ms. Bradley would service the account either as a house account or a sales account.

ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or using his or her official position to influence, any governmental decision in which he or she has a financial interest. An official has a financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on the official, his or her immediate family, or on:

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

Section 87103(c) and (d).

Under Section 87103, Ms. Bradley must disqualify herself from decisions which will have a reasonably foreseeable financial effect on her own "pocketbook." Furthermore, Globe Ticket Company is her employer and also is a source of income to her. Therefore, she must also disqualify herself from decisions which will have a reasonably foreseeable material financial effect on Globe Ticket Company.

In the Thorner Opinion, 1 FPPC Ops. 198 (No. 75-089, Dec. 4, 1975), the Commission concluded that where an official would bid for a contract if a project is approved, it is reasonably foreseeable that the decision would have an effect upon the official. In the present situation, it is reasonably foreseeable that if the Shorelands project is completed, a contract for printing or ticketing equipment will be awarded to Globe Ticket Company. Thus, any decision which will have a significant impact on whether the project is completed will have a reasonably foreseeable effect on Globe Ticket Company and on Ms. Bradley. The question becomes whether Globe Ticket Company or Ms. Bradley will be affected materially.

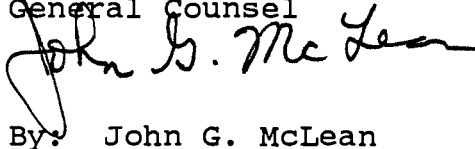
Alice C. Graff
May 14, 1987
Page 4

As a sales representative for Globe Ticket Company, Ms. Bradley is paid in large part to obtain new customers. Completion of the Shorelands project would assist Globe Ticket Company in attaining this objective of adding new customers. In such circumstances, decisions which would affect completion of the Shorelands project would have a material financial effect on Globe Ticket Company. This is so because there would be a "nexus" between the governmental decision and the purpose for which Ms. Bradley receives income.^{3/} (See, Regulation 18702(b)(3)(B); and Advice Letters to Linda Best, No. A-81-032; Tom Haas, No. A-84-037; and Ronald Stein, No. A-83-230, copies enclosed.) Accordingly, Ms. Bradley may not participate in any such decisions.

If you have any questions, please contact me at
(916) 322-5901.

Sincerely,

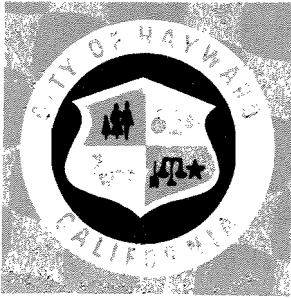
Diane M. Griffiths
General Counsel



By: John G. McLean
Counsel, Legal Division

DMG:JGM:plh
Enclosures

^{3/} Decisions which would affect completion of the Shorelands project might also materially affect Ms. Bradley's economic interests based on the dollar value of the effect on her income or on Globe Ticket Company's gross revenues. (Regulations 18702.1(a)(4) and 18702.2, copies enclosed.) However, we have not been provided with sufficient facts to make this determination. Since we have already concluded that these decisions would have a material financial effect on Globe Ticket Company, this determination does not affect our conclusion.



F P P C
MAR 27 3 54 AM '87
CITY OF HAYWARD

OFFICE OF THE CITY ATTORNEY

March 26, 1987

Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Dear Commissioners:

I am writing on behalf of a Councilmember of the City of Hayward to request your advice on a conflict of interest issue. Councilmember Barbara Bradley is employed by Globe Ticket Company, a corporation that sells ticketing services and equipment. Ms. Bradley is a sales representative for Globe Ticket Company with a territory that includes the City of Hayward. Ms. Bradley works on a salary, commission, and bonus compensation plan which bases Ms. Bradley's compensation upon the amount of sales made to customers in her territory. While Globe Ticket Company can establish a house account in which commissions and bonuses are not earned by sales representatives on the house-account sale, sales representatives are required to service all house-accounts in their territory, compensation for which is in part included in their base salaries, and can earn commissions and bonuses for additional services or products sold by them to house-account customers. Globe Ticket Company considers that it has two significant full-service competitors in the ticketing service and equipment market in California, Dillingham Ticket Company and H. S. Croker Ticket Company, though a large number of companies provide one or more of the products and equipment sold by the full-service concerns.

The potential conflict of interest issue arises from a project being proposed in the City of Hayward by The Shorelands Corporation. The Shorelands' project is a proposal to construct a racetrack and entertainment park, a research and development complex, two hotels, restaurants, a bank, and a commercial center on 687 acres in the City of Hayward. Jurisdiction over the project is vested in the City, the Bay Conservation and Development Commission, and the Corps of Engineers; the project cannot be constructed without approval from all three entities. An EIR/EIS has been prepared on the proposal but has not yet been considered by any of the approving entities. If approved as

proposed, the racetrack, entertainment park, and parking facilities present the potential of contracts for ticketing services and equipment. If these were ultimately supplied by contract with Globe Ticket Company, Ms. Bradley would service the account whether as a house or sales account.

Based upon the facts recited here, is it your opinion that it is "reasonably foreseeable" that Ms. Bradley's income would be materially effected by her participation in City Council decisions involving The Shorelands' project such that her disqualification from those decisions is required by the Act?

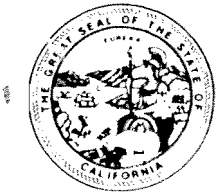
If you need additional information to address the question posed in this letter, please feel free to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Alice C. Graff". The signature is fluid and cursive, with the first name "Alice" and last name "Graff" being clearly distinguishable.

ALICE C. GRAFF
City Attorney

ACG:jd



California Fair Political Practices Commission

March 31, 1987

Alice Graff
City Attorney
22300 Foothill Boulevard
Hayward, CA 94541

Re: 87-099

Dear Ms. Graff:

Your letter requesting advice under the Political Reform Act was received on March 30, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John G. McLean, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh
cc: Barbara Bradley